



PLANNING COMMISSION SYNOPSIS

Wednesday, August 22, 2007

6:30 p.m. Regular Meeting

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Xavier Campos, Chair

James Zito, Vice-Chair

Lisa Jensen Ash Kalra

Matt Kamkar Randi Kinman

Christopher Platten

Joseph Horwedel, Director

Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, August 22, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

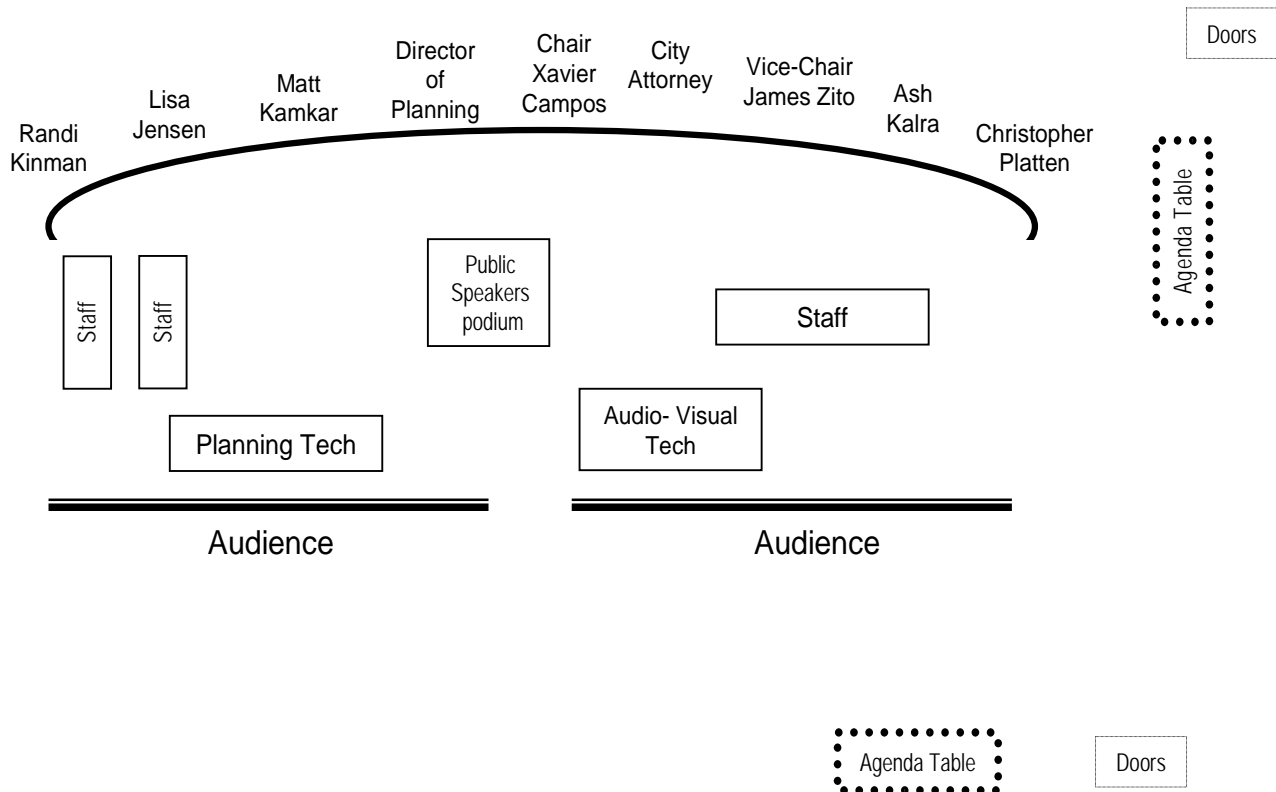
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Carmen Stanley at carmen.stanley@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA

ORDER OF BUSINESS

1. **ROLL CALL**

2. **Election of Planning Commission Officers:**

a. Election of Planning Commission Chair

1) *Zito suggested procedure for nominations, Jensen seconded motion. The motion passed unanimously by voice vote*

All nominees known before vote; nominees can make statements.

2) *Commissioners Zito and Kalra nominated for Chair.*

3) *Commissioner Kalra elected with four votes. Commissioner Zito received three votes.*

b. Election of Planning Commission Vice Chair

1) *Commissioners Zito, Kinman and Kamkar nominated for Vice Chair.*

2) *Commissioner Kinman elected with four votes. Commissioner Zito received three votes.*

3. **DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.

b. **PDC06-094.** Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 250 single-family attached residences in three-story buildings constructed on a podium on a 4.4 gross acre site, located at the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Avenue) (381 Stockton LLC, Owner; Morrison Park Homes LLC, Developer). Council District: 6. SNI: None. CEQA: Draft Mitigated Negative Declaration. Deferred from 6/27/07, 7/18/07, 8/8/07.

DEFERRED TO 9-12-07 (7-0-0)

c. **CP06-067.** Conditional Use Permit to install one wireless monopole, approximately 56 feet in height, and an associated 350 square foot equipment area, on a 31.93 gross acre site in the R-1-8 Single-Family Residence Zoning District, located on the southeast corner of Marten Avenue and Flint Avenue (1966 Flint Avenue)(Mount Pleasant School District, George Perez, Owner). Council District: 8. SNI: None. CEQA: Exempt.

DEFERRED TO 9-12-07 (7-0-0)

- d. **CP07-025.** Conditional Use Permit Renewal to allow an existing public eating, drinking, and entertainment establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District. Britannia Arms, located at 173 W. Santa Clara Street. (The Farmers Union, owner). Council District: 3. SNI: None. CEQA: Exempt. Deferred from 6/27/07, 8/8/07.

DEFERRED TO 9-12-07 (7-0-0)

- e. **PDC06-004.** Planned Development Rezoning from R-1-2 Residence and CP Commercial Pedestrian Zoning Districts to A(PD) Planned Development Zoning District to allow up to 38 single-family detached residences on a 4.5 gross acre site located on the east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive (4280 MONTEREY RD) (Monterey Town Ctr LLC, Owner; Sabercat Holdings Michael Luu, Developer). Council District: 2. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 8/8/07.

DEFERRED TO 9-12-07 (7-0-0)

- f. **PDC06-061.** Planned Development Rezoning from the IP Industrial Park Zoning District to the A (PD) Planned Development Zoning District to allow up to 183 single-family attached residences on a 3.16 gross acre site, located on the Northwest side of Baypointe Parkway, approximately 370 feet northerly of Tasman Drive (163 Baypointe Parkway) (First Real Estate, LLC, First Real Estate, LLC Wayne Sun, Owner; FF Development Dan Milich, Developer). Council District: 4. SNI: None. CEQA: Addendum to EIR.

DEFERRED TO 9-12-07 (7-0-0)

- g. **PDC06-093.** Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning to allow up to 705 single-family and multi-family attached residences, 25,000 square foot retail space, and underground parking on a 10.01 gross acre site, located on the northwest corner of Zanker Road and Tasman Drive (3811 Zanker Road) (Zanker Road Invs LLC, Owner). Council District: 4. SNI: None. CEQA: Addendum to EIR.

DEFERRED TO 9-12-07 (7-0-0)

4. **CONSENT CALENDAR**

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **CP07-043.** Conditional Use Permit to allow a vocational school for the disabled in a tenant space within an existing office building on a 1.50 gross acre site located on the west side of Piedmont Road, approximately 460 feet north of Sierra Road (1325 - 1333 Piedmont Road) in the CP - Commercial Pedestrian Zoning District, (Yiichung I. Ko and Jannjann J. Yang Et Al, Owner). Council District: 4. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

- b. **C07-039**. Conventional Rezoning request from LI-Light Industrial Zoning District to CG-Commercial General Zoning District to allow commercial uses on a 0.49 gross acre site, located on the northwest corner of Airport Parkway (East Brokaw Road) and North First Street (2101 North First Street) (Tosco Corporation, Conocophillips Company, Owner; Mr David Joines, Developer). Council District: 4. SNI: None. CEQA: Reuse of North San José Policy Update EIR Resolution No. 72768 certified on June 21, 2005.

APPROVED (7-0-0)

- c. The projects being considered are located at/on south side of Rose Ave, approximately 120 feet easterly of Nancy Lane (2925 FLORENCE AV), in the R-M Multiple Residence Zoning District (CAPITAL TOWNE HOUSE INC, Owner; CAPITAL TOWNE HOUSE, MR HERBERT SALAS, Developer). Council District: 5. SNI: East Valley/680 Communities. CEQA: Exempt.

- 1) **CP07-016**. Conditional Use Permit to allow conversion of an existing apartment building to 82-unit condominium complex on a 3.45 gross acre site.

DEFERRED TO 9-26-07 (6-1-0; PLATTEN OPPOSED) TO CONFIRM SNI NAC INTEREST IN REVIEW OF PROJECT. (see notes for item 4.c.2.)

- 2) **T07-009**. Tentative Condominium Map Permit to reconfigure one parcel into 8 lots for 82-unit residential condominium purposes on a 3.45 gross acre site.

DEFERRED TO 9-26-07 (6-1-0; PLATTEN OPPOSED) TO CONFIRM SNI NAC INTEREST IN REVIEW OF PROJECT.

Pulled by Commissioners Zito and Jensen as not clear if project referred to the SNI Neighborhood Advisory Committee. Applicant, Sal Caruso, explained nature of project, commented no "new construction," only embellishment, and should not need to go back to SNI group. Commissioner Jensen commented that it should be part of process to go to SNI group, even if the project will be an improvement. In response to Commissioner Zito, the applicant stated, construction improvements need to be done before the rain season. Commissioner Kamkar asked why work could not already begin, and applicant commented that the Commission's approval would dictate conditions. Applicant again stated no physical changes and staff explained public outreach policy and usual process to refer larger projects with new construction to SNI NAC. Motion by Zito to defer item to allow for a noticed meeting at the NAC, usually occurring the third Thursday, so a deferral date September 26, 2007.

In response to Commissioner Platten, Deputy Director clarified that this project, by practice, is not likely of interest to NAC – no physical changes, just a change in unit ownership. Commissioner Platten asked what ability staff/neighborhood NAC might have to make changes. City Attorney clarified reasons for requirement for process for conversions, especially safety items, but although could be public input – probably wouldn't change. Platten stated that he understands staff has responsibility to make judgements; in this case, used usual practice, no new construction, and had adequate notice. Commissioner Kamkar asked how this could be legal issue. City Attorney said, it is not a legal issue. Deputy Director explained again the standards for noticing, publishing and posting, and stated staff did not miss a step. Deputy Director stated staff has some discretion regarding criteria for setting a community meeting or NAC referral and no mistake was made in this case, based on staff's experience. Commissioner reopened the public hearing for a single speaker whose mother lives in project who wants to be able to sell her unit. He asked Commissioners to pass project. Commissioner Kamkar asked if copies of notice were received and speaker indicated that the whole

building was noticed. Commissioner closed testimony again. Commissioner Zito expressed that it is not the same to have a community meeting with a notice as opposed to putting the item on the NAC is regular agenda. The item was then deferred (6-1-0; Platten opposed) to September 26, 2007.

- d. **PDC07-024.** Planned Development Rezoning from the R-M Residential Zoning District to the A(PD) Residential Zoning District to allow 20 single-family attached residences on a 0.50 gross acre site, located at 4977 Dent Avenue (on the west side of Dent Avenue, approximately 400 feet south of Branham Lane) (Bryce Baker Trustee, Owner). Council District: 9. SNI: None. CEQA: Negative Declaration.

RECOMMENDED APPROVAL (7-0-0)

The following items are considered individually.

5. **PUBLIC HEARINGS**

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. **PDC05-114.** Planned Development Rezoning from CO(PD) Commercial Office Planned Development, LI Light Industrial, and CG Commercial General Zoning Districts to A(PD) Planned Development Zoning District to allow up to 460 single-family attached residences and 20,000 square feet for retail commercial uses on a 2.4 gross acres site, located on the southwest corner of North 1st Street and Century Center (1733 N 1ST ST) (James Schmidt Et Al, Owner). Council District 3. SNI: None. CEQA: NSJ EIR Resolution No.72768, and Addenda thereto. **Deferred from 8/8/07.**

RECOMMENDED APPROVAL (7-0-0) WITH CONDITIONS FOR 1) MINIMUM 30-FOOT SETBACK FROM CENTURY CENTER COURT AND 2) MINIMUM 10,000 SQUARE-FEET OF COMMERCIAL.

Staff and applicant explained future options for alignment of people mover to airport. Applicant stated he held special meeting with Rosemary Gardens neighborhood, and attendees indicated support. No speakers from neighborhood were present at the hearing. Commissioner Campos asked whether the applicant had asked for use of the ten percent parking reduction allowed due to proximity to transit line. Staff responded current conceptual proposal does not include maximum units and if unit count increased, could result in reduced parking ratio, but likely also smaller units.

Commissioner Kinman asked whether project had a minimum square footage for retail and asked where would Parkland dedication fees be sent. Staff explained likely park location to north near Metro Center Plaza. In response to Commissioner Zito, staff explained rationale for 20,000 square feet of retail, and explained that more ground floor retail would limit parking and possible number of units. Zito moved approval with condition for a minimum of 10,000 square feet of commercial square footage. Commissioner Jensen asked for review of "green building" strategies at PD permit stage, given non-opening windows. Staff clarified

that with proposed 30 foot setback from guideway, windows could open and use of green building strategies are a plus criteria for NSJ policy allocation. In response to Commissioner Kamkar, public works staff and applicant explained flood zone requirements and clarified nature of garage levels proposed with all ground floor commercial. Commissioner Kalra suggested maintaining private open space and agreed with adding minimum retail space square footage requirement.

- b. **PDC06-112.** Planned Development Rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site, located on the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue (4170 OLGA DR) (Noel Avenue LLC, Owner). Council District: 1. SNI: Blackford. CEQA: Negative Declaration.

DEFERRED TO 9-12-07 (7-0-0) TO CONFIRM WHETHER SNI INTERESTED IN REVIEW OF PROJECT.

Commissioner Kinman stated project has more private open space than required and 'thanked' applicant. Commissioner Kamkar asked for clarification on parking arrangement, and applicant explained that not high parking demand on Olga Drive, approximately 40 feet wide. Applicant explained that more landscaping is proposed than shows on the plans and that units will preserve privacy for adjacent duplexes. Commissioner Kalra explained those details could be addressed at the PD Permit level. Staff explained that those changes could be added to Development Standards. Commissioner Jensen asked whether this project had been presented to the Blackford SNI NAC. Staff explained internal staff process for referrals to NACs. Commissioner Kinman asked whether the on-street parking could be counted towards the project as not on-site. Staff explained parking immediately in front of site can count per the Residential Design Guidelines. Commissioner Jensen stated that she was not satisfied that Blackford SNI NAC was aware of project and stated staff is inconsistent about citations for SNI.

In response to Commissioner Kamkar, staff explained the project's parking on the street and stated that no congested parking had been observed on the street. Commissioner Kalra commented details about parking could be determined at PD permit stage. Commissioner Platten asked if the Commission could be amending Outreach Policy. City Attorney explained it is a Council Policy, cannot be amended by Planning Commission. Commissioner Jensen suggested a line be added to staff report to indicate the NAC declined to comment. Deputy Director suggested the NACs be asked whether they want to have a change in how projects are referred to them as each NAC is different. The motion was clarified as to defer item, not to recommend any further changes to outreach policy. Commission asked staff to return with a proposal to ensure that SNI NACs are apprised about projects. Deputy Director explained that staff would coordinate with SNI team. Staff stated would assess possible procedures, and that staff would also be revising staff report format to minimize number of places data is entered.

- c. **Residential Design Guidelines Addition of Two New Chapters:** Chapter 25a –Transit-Oriented Development Guidelines and Chapter 26 – Mid and High-Rise Design Guidelines of the Residential Design Guidelines. CEQA: Not a project.

RECOMMENDED APPROVAL (6-0-1; PLATTEN ABSENT)

Recommend adoption with slight revisions as proposed by the Commission, as described by Commissioner Jensen. In response to Commissioner Kalra, staff clarified elements reflecting VTA comments. Commissioner Jensen stated support for chapters, especially focus on green buildings. She suggested pedestrian-oriented signage be highlighted, and asked where bicycle parking would be appropriate to be in Guidelines, and she asked that "Frame" be used throughout and asked if SNI plans should be referenced explicitly, and stated City

should clarify historic buildings as economic assets. Staff responded that suggested concepts could be made more explicit, and Guidelines could include cross-referencing to support of SNI plans and neighborhood plans.

6. **PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- 1) Responding to statements made or questions posed by members of the public; or
- 2) Requesting staff to report back on a matter at a subsequent meeting; or
- 3) Directing staff to place the item on a future agenda.

No Comments

7. **REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

None

8. **GOOD AND WELFARE**

- a. Report from City Council

Staff noted Flea Market rezoning approved by Council, August 14, 2007, the Irvine NSJ rezoning deferred to August 28, 2007 by Council, and that 14 unit project on Radio Avenue also deferred to August 28th, with applicant to revise plans per Commission comments.

- b. Commissioners' report from Committees:

- 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).

Meeting scheduled for next Monday.

- 2) Coyote Valley Specific Plan (Platten). *Platten absent, no report.*

- 3) Parks Funding Subcommittee (Zito).

Parks Subcommittee met 8/22/07 – considered park staff and Council recommendation that millions of park improvements be considered in the \$1/2 billion pot of all citywide improvements. Subcommittee may look for money raising schemes if park improvement funds not forthcoming.

- c. Envision San José 2040 General Plan Update Process.

- 1) *Will be added as the 4th standing item under Good and Welfare, Commissioner's report from Committees.*

- 2) *First Meeting changed from September 29, 2007 to September 17, 2007.*

- d. Review of synopses for past meetings of 6/27/07, 7/18/07 and 8/8/07.

- 1) *June 27, 2007 – Approved*
 - 2) *July 18, 2007 – Approved*
 - 3) *August 8, 2007 – Approved with change to reflect Jensen abstained on item 3.c.*
- e. Consider study session dates and/or topics.

Discussed possible retreat date of Thursday, October 25, 2007. Possible topics to include CEQA and Green Building Strategies and Mayor's Vision.

9. **ADJOURNMENT**

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i> <i>Coyote Valley Specific Plan EIR</i>	T-332
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i> <i>Meeting Procedures and Commission Role</i>	T-332
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i> <i>Early Public Outreach for General Plan Update</i>	T-332
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i> <i>Level of Service Policy</i>	T-332
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i> <i>Review Capital Improvement Program</i>	T-1654
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i> <i>Sunshine Reform Task Force Recommendations</i>	T-332
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i> <i>Economic Development/Retail Strategy</i>	T-332
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i> <i>Riparian Corridor issues</i>	W-120
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	5:00 p.m.	<i>Study Session</i> <i>Street Vacations and Easements</i>	T-332
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers